IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

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O R D E R

Someshwar Maliwad
Vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO.2020/2001 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 30th August, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.A.K. Rajvanshi, for the petitioner.
Mr.Rameshwar Dave, Dy.Govt. Advocate for the respondent.

BY THE COURT

The petitioner has challenged the order dated 01st March, 2001 whereby the District Collector, Dungarpur in exercise of powers conferred upon him by Rule 57(1) of the Rajasthan Civil Services (Pension) Rules, 1996 compulsorily retired him from service in public interest with effect from the date of expiry of the period of three months from the date of service of the said

order. Notice period of three months expired on 01st June, 2001.

The grievance of the petitioner is that since he was due to retire on attaining the age of superannuation on 31st January, 2002, invocation of powers under Rule 53(1) by the respondents thereby retiring him compulsorily was contrary to their own Circular dated 21st April, 2000, which provided that if a government servant is due to retire in a period of less than one year, the provisions of Rule 53(1) (supra) shall not be invoked. Another argument raised by the petitioner is that the Government has issued a Circular on 07th March, 2001 which inter alia provided that it would be mandatory to obtain permission of Standing Committee headed by Secretary, Department of Personnel, Government of Rajastha, prior to compulsorily retiring a government servant.

The respondents have filed a detailed reply to the writ petition in which they have placed on record as many as five different orders whereby different kind of penalties were imposed on the petitioner. They have also placed on record the relevant extract of the APRS of the petitioner pertaining to the year 1986-1987 and 1995-1996 wherein adverse remarks was recorded against him. Later remarks stated that the petitioner is in the habit of misbehaving with his colleagues and harassing the

farmers. It has been asserted that the retirement of the petitioner was made in public interest. As regards the arguments of the petitioner about sanction have not been obtained from the Standing Committee in terms of the Government Circular dated 07.03.2001, it has been argued that since the order of the petitioner's retirement was passed on 01st March, 2001, the Government Circular dated 07.03.2001 being prospective in nature would not apply to his case.

I have heard Mr.A.K. Rajvanshi, learned counsel for the petitioner as well as Mr.Rameshwar Dave, learned Dy. Government Advocate and perused the record.

In view of the number of adversities against the petitioner as detailed above in the reply to the writ petition and the adverse remarks, decision of the respondents to compulsorily retire him in public interest cannot be faulted with. So far as the arguments of the petitioner with regard to sanction of the Standing Committee having not been obtained, it may be noted that the Standing Committee came to be constituted by Government Circular dated 07.03.2001 when the oder of petitioner's compulsorily retirement had already been issued on 01st March, 2003. The Government Circular dated 07.03.2001 therefore could not be applied retrospectively and the old cases

could not be reopened on the basis of such circular.

In the facts and circumstances of the case, even if the petitioner would not have been compulsorily retired, he would have hardly continued in service for eight more months. Compulsorily retirement of the petitioner was not made by way of penalty. Even after his compulsory retirement the petitioner would still be entitled to all his retiral benefits including pension and gratuity. Now that a long period of 5½ years have gone by from the date of his compulsorily retirement, I am not inclined to interfere with the order of the Collector at this stage.

In the circumstances, the writ petition is dismissed.

[MOHAMMAD RAFIQ],J.

Ashwini/-